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FILED

September 30 2009

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

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*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

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SEP 02 2009

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

**JAMES D. MOORE**  
**ATTORNEY AT LAW**  
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Attorney for Defendant and Appellant,  
**JAMES R. MOSTI**

**IN THE SUPREME COURT OF THE STATE OF MONTANA**

**Supreme Court Cause No. DA**

**CACV OF COLORADO, LLC,**  
**Plaintiff and Appellee,**

**vs.**

**JAMES R. MOSTI,**  
**Defendant and Appellant.**

**NOTICE OF APPEAL**

**NOTICE IS HEREBY GIVEN** that JAMES R. MOSTI, the Appellant above-named, and who is the Defendant in that cause of action filed in the Eleventh Judicial District Court, in and for the County of Flathead, as Cause No. DV-06-744(B), hereby appeals to the Supreme Court of the State of Montana from the Order and Rationale on Plaintiff's Motion for Summary Judgment dated June 8, 2009, the Judgment dated July 2, 2009, and the Notice of Entry of Judgment dated July 30, 2009.

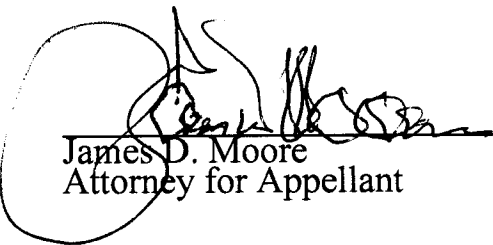
**THE APPELLANT FURTHER CERTIFIES AS FOLLOWS:**

1. That this appeal is an appeal from a final judgment and is therefore not an appeal from an order certified as final under M.R.Civ.P.54(b). A true and correct copy of the District Court's Judgment for Plaintiff dated July 2, 2009, is attached hereto as Exhibit "A."
2. That this appeal does not involve the challenge to the constitutionality

1 of any act of the Montana Legislature; therefore, M.R.App.P. 27 does  
2 not apply.

3 3. That all available transcripts of the proceedings in this cause involving  
4 the issues appealed have been ordered from the Court Reporter  
5 contemporaneously with the filing of Defendant/Appellant's Notice of  
6 Appeal.

7 4. DATED: August 31, 2009.

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10 James D. Moore  
11 Attorney for Appellant  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I have filed a true and accurate copy of the foregoing  
3 AMENDED NOTICE OF APPEAL with the Clerk of the Montana Supreme Court;  
4 and that I have served true and accurate copies of the foregoing NOTICE OF APPEAL  
upon the Clerk of the District Court, each attorney of record, and each party not  
represented by an attorney in the above-referenced district Court action, as follows:

5 Charles Dendy  
6 JOHNSON, RODENBURG & [ ☒ ] U.S. Mail (first class postage)  
7 LAUINGER [ ] Hand Delivery  
1004 East Central Avenue [ ]  
Bismark, ND 58501-1936 [ ] Other  
8 *Attorney for Plaintiff/Appellee*

9 Clerk of District Court  
10 Flathead County Justice Center [ ☒ ] U.S. Mail (first class postage)  
800 South Main Street [ ] Hand Delivery  
11 Kalispell, MT 59901 [ ] Other

12 I declare under penalty of perjury that the foregoing is true and correct.

13 Executed on August 31, 2009.

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16 Teri Ann Lawler  
17 Paralegal  
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id 7/2/09

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

CACV OF COLORADO, LLC,

Plaintiff,

vs.

JAMES R MOSTI,

Defendant.

Cause No.: DV-06-744B

Before: Hon. Katherine R. Curtis

SUMMARY JUDGMENT

COPY

This matter having been <sup>presented to KRC</sup> ~~heard by~~ the court on motion of plaintiff for a summary judgment against defendant pursuant to Rule 56 of the Montana Rules of Civil Procedure, and the court being of the opinion that the pleadings and admissions on file in this action together with the affidavits submitted in support thereof show that there is no genuine issue as to any material fact, and that plaintiff has a right to such summary judgment as a matter of law;

It is therefore ordered that judgment is entered in favor of plaintiff and against defendant for \$5,520.07, interest of \$1,202.10, and costs of \$210.00 making a total judgment of \$6,932.17 plus accruing post-judgment court costs.

Dated: 7/2/09

Katherine R. Curtis  
Judge

39187

EXHIBIT "A"

